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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,835	05/09/2000	CHRISTINE RONDEAU	05725.0577	6223

7590 06/03/2003  
FINNEGAN HENDERSON FARABOW GARRETT & DUNNER  
1300 I STREET NW  
WASHINGTON, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 06/03/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/529,835

Applicant(s)

RONDEAU, CHRISTINE

Examiner

Eisa B Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-8 and 32-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 32-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1 This action is responsive to the response filed on April 21, 2003.

2 The rejection of claims 2-8 and 32-77 under 35 U.S.C. 103(a) as being unpatentable over Rondeau et al. (US 6,001,135) in view of Casperson et al. (US 5,376,146) and further, in view of Aaslyng et al (WO 97/19998), is maintained for the reasons set forth in the previous office action in paper No. 14, dated 10/23/2002.

#### ***Response to Applicant's Arguments***

3 Applicant's arguments filed 4/21/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Rondeau (US' 135), Casperson (US' 146) and Aaslyng (WO' 998), Applicant argues that there is no motivation or reasonable expectation of success to combine the references.

The examiner respectfully disagrees with the above arguments because Rondeau (US' 135) as a primary reference teaches a hair dyeing composition comprising the cationic dyes as claimed (see col. 2, lines 25-65, col. 3 and 4, lines 1-65). Rondeau also clearly teaches that quaternary ammonium compounds are used in the hair dyeing composition (see col. 24, Example 2). The primary reference of Rondeau also teaches that the hair dyeing composition comprises an oxidizing agent selected from oxidizing agents that used conventionally in oxidation dyeing composition (see col. 21, lines 14-19). Casperson (US' 146) in analogous art teaches a hair dyeing composition comprising quaternary ammonium salts which represented by a formula similar to the claimed formula as described in the previous office action. The secondary reference of Casperson clearly teaches that the quaternary ammonium salts are used in the hair

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dyeing compositions as conditioners for improve the lubricity of the hair such as making the hair easy to detangle while wet and feel smooth and be readily managed when dry (see col. 8, lines 61-68 and col. 9, lines 1-4). Aaslyng (WO' 998) in other analogous art of hair dyeing composition teaches a composition comprising laccase enzyme as an oxidizing agent as claimed in claim 58 (see page 3, lines 28-29). Aaslyng clearly teaches that the use of hydrogen peroxide as an oxidizing agent in the dye compositions have some disadvantages such as damages the hair (see page 2, lines 20-21). Therefore, it would have been obvious to the skilled person in the art to be motivated to modify the primary reference of Rondeau by incorporating the quaternary ammonium salts of Casperson and laccase enzyme of Aaslyng to make such a composition with the reasonable expectation of success for improving the conditions of the hair as taught by Casperson and to reduce the damage on the hair as taught by Aaslyng. Therefore, the prima facie case of obviousness has been established.

4 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Elhilo  
May 28, 2003

  
YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700